Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at http://about.jstor.org/participate-jstor/individuals/early-journal-content.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

tween a mere warning and the duty to instruct the plaintiff how to avoid the danger. It would seem also that due weight was not given to the fact that the case was on a demurrer to the evidence, where every presumption is against the demurrant.

MASTER AND SERVANT—WORKMEN'S COMPENSATION ACT—WHO IS AN EMPLOYEE.—The plaintiff was president of a small corporation from which he received a salary, and owned a great majority of its stock. He was accustomed to assist in the manual labor of the establishment, and while so engaged he was injured. He sued the corporation for damages, under the Workmen's Compensation Act, claiming to be an employee. *Held*, the plaintiff can recover. *Browne* v. *S. W. Browne Co., et al.*, 162 N. Y. Supp. 244.

The Workmen's Compensation Acts which have, in recent years, been enacted in the majority of the states of the Union are remedial in their nature, and should be given a liberal construction so as to effectuate the purpose for which they were adopted. *Appeal of Hotel Bond Co.*, 89 Conn. 143, 93 Atl. 245. See *Coakley* v. *Coakley*, 216 Mass. 71, 102 N. E. 930.

It is essentially necessary under these acts, before any person can be considered an employee, that he be engaged under a contract of employment expressed or implied—in short, the relation of master and servant must exist. *Hillestad* v. *Industrial Ins. Com.*, 80 Wash. 426, 141 Pac. 913, 40 Ann. Cas. 789; *Susznik* v. *Alger Logging Co.*, 76 Or. 189, 147 Pac. 922; *Doggett* v. *Waterloo Taxicab Co.*, (1910) 2 K. B. 336. 1 HONNOLD, WORKMEN'S COMPENSATION, § 51. And one who receives no wages but performs the work voluntarily is not to be deemed an employee. *Kemp* v. *Lewis*, (1914) 3 K. B. 543. The fact that the employee obtained the contract of service by misrepresentation, rendering it voidable at the election of the employer, would not, of itself, seem to affect his status as an employee with respect to the employer's obligations to him arising under the statute. See *Kenny* v. *Union Ry. Co.*, 166 App. Div. 497, 152 N. Y. Supp. 117. But it seems, on principle, that if the contract is illegal, or prohibited by law, the status of the employee is affected. See *Kemp* v. *Lewis, supra; Hillestad* v. *Industrial Ins. Com., supra.*

Under the English Compensation Act the term "workman" does not include a person whose employment is of a "casual nature." *Hill* v. *Begg*, (1908) 2 K. B. 802. And generally, provisions of a similar import are to be found in the American statutes. See 1 HONNOLD, WORKMEN'S COMPENSATION, § 62. But the American courts, in this connection, have adopted a very liberal rule of construction. *Schaeffer* v. *De Grottola*, 85 N. J. L. 444, 89 Atl. 921, 4 N. C. C. A. 582. State and municipal employees are included in the provisions of most of the statutes. *State* v. *District Court* (Minn.), 158 N. W. 790. See 1 HONNOLD, WORKMEN'S COMPENSATION, § 53. But public officers are not considered as employees within the provisions of the several acts. *Sibley* v. *State* (Conn.), 96 Atl. 161.

The true test by which to determine whether one person is another's employee under the Compensation Acts is to ascertain whether the alleged employer possesses the power to control the other person in re-

spect to the transaction out of which the injury was received. *State* v. *District Court*, 128 Minn. 43, 150 N. W. 211. Obviously, therefore, an independent contractor does not come within the definition or purview of the statutes. *Vamplew* v. *Parkgate Iron, etc., Co.*, (1903) 1 K. B. 851. However, it is often very difficult to determine, in a given case, whether one is an employee or an independent contractor. See *In re Rheinwald*, 168 App. Div. 425, 153 N. Y. Supp. 598; 1 HONNOLD, WORKMEN'S COMPENSATION, 208.

While there is a great deal of confusion in the decisions as to what persons are employees within the meaning of the acts, the decision in the principal case seems sound on reason and principle, when it is remembered that the statute is remedial and, therefore, to be liberally construed in favor of the person injured. *Beckman* v. *Oelerich & Son* (App. Div.), 160 N. Y. Supp. 791. And the fact that the plaintiff was both an officer and stockholder of the corporation should not, of itself, affect his status as an employee. See 1 HONNOLD, WORKMEN'S COMPENSATION, § 173. This doctrine cannot, within the meaning of the several statutes, be extended to all corporate officers; but must be confined to those cases where the officer is engaged under a "contract of service" to do work within the usual course of business of the corporation.

MORTGAGES—CONSTRUCTION—DEED ABSOLUTE ON ITS FACE.—The plaintiff borrowed money from the defendant and executed a mortgage to secure the payment of the debt. The debt not being paid at maturity, the plaintiff gave the defendant an absolute deed to the property, which was worth but little more than the amount of the debt, and, at the same time, made a contract whereby he should have the right to repurchase the property within a year. He now seeks to have the deed declared a mortgage. *Held*, the transaction constituted a purchase and sale of the property. *Shaner* v. *Rathdrum State Bank* (Idaho), 161 Pac. 90. See NOTES, p. 403.

MUNICIPAL CORPORATIONS—LIABILITY—PERSONAL INJURY RESULTING FROM PUBLIC CELEBRATION.—The plaintiff's intestate was killed by the explosion of a defective bomb sent up during the course of a public Fourth of July celebration given by a city and from which the city received no pecuniary profit. The plaintiff brought an action against the city to recover damages for the wrongful death. *Held*, the city is not liable. *Pope* v. *City of New Haven* (Conn.), 99 Atl. 51.

Two kinds of duties are imposed upon a municipality; one is governmental, or for the benefit of the whole public, and the other is quasi-private or ministerial. A city is not liable to a person injured by it in the performance of or failure to perform a governmental duty. *Trammell* v. *Russellville*, 34 Ark. 294, 36 Am. Rep. 1; *Jones* v. *Williamsburg*, 97 Va. 722, 34 S. E. 883, 47 L. R. A. 294. Thus, one arrested for violating an illegal ordinance cannot recover damages for the illegal imprisonment. *Trammell* v. *Russellville*, *supra*. Nor is a city liable for the acts of its public officers in performing governmental duties; and, therefore, it is not liable for their failure to protect private property from a known